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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

RENE G. RAMIREZ,

Defendant and Appellant.

2d Crim. No. B254111  
(Super. Ct. No. TA128929)  
(Los Angeles County)

Rene G. Ramirez appeals after a jury convicted him of grand theft (Pen. Code,<sup>1</sup> § 487, subd. (a)). In a bifurcated proceeding in which appellant acted as his own attorney, the trial court found that appellant had a prior strike conviction and had served two prior prison terms (§§ 667, subds. (b) - (i), 667.5, subd. (b), 1170.12, subds. (a) - (d)). Appellant was sentenced to six years in state prison, consisting of the upper term of three years doubled for the strike prior.

Appellant and his brother, codefendant Rogelio Ramirez Guzman, attended a wedding reception at Alfredo Baraja's place of business in Long Beach. Three all-terrain vehicles (ATV's) and a trailer were stored on the property, although they were not in plain view during the reception.

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<sup>1</sup> All further statutory references are to the Penal Code.

Manuel Alvarez worked at a business across the street from Baraja's. Three days after the wedding reception, Alvarez arrived at work at about 7:00 a.m. and noticed the fence and gate to Baraja's business were "open and bent." Alvarez reviewed the videotape from his employer's video surveillance system, which had a camera that allowed him to view the front of Baraja's business. At about 4:00 a.m. that morning, a dark-colored sedan pulled up to Baraja's gate. An individual Alvarez could not identify got out of the passenger's side of the car and opened the gate. The car then backed through the gate and the gate closed. Five to ten minutes later, the gate opened again and the car came out pulling a trailer. The trailer hit the fence and bent it.

Alvarez called the owner of Baraja's property to report what he had seen. The videotape was taped over before the police obtained a copy.

At about 5:20 a.m. that same morning, a Los Angeles County Sheriff's Deputy was in the area on his way to work when he saw a dark-colored vehicle pulling a long trailer. The deputy thought it was unusual for a car to be towing such a long trailer and believed the trailer was not attached in a typical fashion. After the deputy saw the vehicle run a red light, he pulled up next to the vehicle and told the driver what he had seen. The driver swore at the deputy, who then put out a radio call for officers to conduct a traffic stop.

Officers responded and detained the occupants of the vehicle. Codefendant Carlos Gomez was the driver, codefendant Maria Silva was the front-seat passenger, and appellant and Guzman were in the back seat. Three ATV's were on the trailer. Barajas came to the scene and identified the ATV's as his property.

Gomez testified against appellant after pleading no contest to grand theft in exchange for a 16-months prison sentence and half-time credits. At about 1:00 a.m. on the morning of the theft, Guzman spoke to Gomez about stealing the ATV's. Gomez was given money for gas and was promised methamphetamine in exchange for his participation. Gomez, Guzman, and Silva (who was asleep in the car) drove in Silva's car to Guzman's house and picked up appellant. They then drove to Baraja's business.

Guzman got out of the car and broke the lock to the gate. Gomez backed the car into the property, and he and Guzman attached the trailer. Gomez testified that appellant may have helped, but also said appellant remained in the car the entire time.

Right before Gomez pled guilty, he told a district attorney investigator that Guzman picked up bolt cutters and a crowbar when they went to Guzman's house. He also said that both appellant and Guzman got out of the car and hitched the trailer to the car. In a prior interview with a detective, Gomez said that appellant and Guzman drove the car into the business and came back pulling the trailer with the ATV's.

We appointed counsel to represent appellant in this appeal. After examining the record, counsel filed an opening brief raising no issues and requesting that we independently examine the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

On December 22, 2014, we advised appellant in writing that he had 30 days within which to personally submit any contentions or issues he wished to raise on appeal. Appellant filed a timely response in which he claims (1) the prosecutor committed misconduct by failing to produce the videotape that Alvarez viewed and testified to; (2) his trial attorneys provided ineffective assistance of counsel by failing to obtain the videotape or present the testimony of Stephanie Torres, who purportedly would have provided appellant with an alibi; and (3) the evidence is insufficient to support his convictions because Gomez was an inherently unreliable witness.

None of these claims raises an arguable issue on appeal. The videotape would not have aided appellant because Alvarez's description of what it depicted was entirely consistent with the rest of the prosecution's case. (See *People v. Earp* (1999) 20 Cal.4th 826, 866 [prosecutor's duty to disclose favorable and material evidence not violated unless "there is a reasonable probability that, had [it] been disclosed to the defense, the result . . . would have been different"]; *Strickland v. Washington* (1984) 466 U.S. 668, 687, 694 [to establish ineffective assistance, a defendant must show it is reasonably probable he would have achieved a more favorable result but for counsel's error].) Appellant's claim that counsel was ineffective for failing to call Torres fails

because, among other things, we have no idea what she would have said or whether she was willing and/or available to testify. His claim of insufficient evidence lacks merit because (1) Gomez's credibility went to the weight of his testimony, not its admissibility; and (2) the evidence independent of Gomez's testimony was sufficient to sustain the convictions.

We have examined the record and are satisfied that appellant's attorneys have fully complied with their responsibilities and that no arguable issue exists. (*People v. Wende, supra*, 25 Cal.3d at p. 441.)

The judgment is affirmed.

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PERREN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

Paul A. Bacigalupo, Judge  
Superior Court County of Los Angeles

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California Appellate Project, Jonathan B. Steiner, Executive Director,  
Maria Morrison, Staff Attorney, under appointment by the Court of Appeal; Rene G.  
Ramirez, in pro. per., for Appellant.

No appearance for Respondent.